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EXAMINER

NAJJAR, S

ART UNIT

PAPER NUMBER

2154

DATE MAILED:

01/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/943,356

Applicant(s)

Charl et al.

Examiner

Saleh Najjar

Group Art Unit

2154



☒ Responsive to communication(s) filed on Sep 27, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-38 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-38 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 20, 24

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

1. This action is responsive to the amendment filed on September 27, 2000. Claims 1, 11, 20, and 23 were amended. Claims 1-38 are pending examination. Claims 1-38 represent a method directed toward managing computer system alerts.

2. Claims 21-22 are objected to because of the following informalities: the claims refer to the wrong claim number. Appropriate correction is required.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-38 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 08/942,005.

This is a provisional obviousness-type double patenting rejection.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 11-18, 20-22, 34-35, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Dev et al., U.S. Patent No. 5,751,933.

Dev teaches the invention as claimed including a system for determining the status of entities in a computer network (see abstract).

As to claim 11, Dev teaches a method of monitoring the operational status of components in a computer comprising the acts of:

generating a notification about the status of at least one component in the computer, said notification comprising a first code which contains data about said component, said first code having a first data length, and receiving said notification unfiltered at a remote computer (see figs. 1-4; col. 7, lines 25-30, Dev discloses receiving significant events from network devices at the virtual network machine); and

allowing the user to selectively disable or enable a processing of said notification by selecting or deselecting a corresponding notification type in a graphic display (see figs. 7-11; col. 13-16, Dev discloses that the user may process further information about an alert by clicking on the corresponding device icon and alert status);

transforming said notification into an automatically displayed user-friendly display message comprising a second data length, wherein said second data length is significantly greater than said first data length (see figs. 7-11; col. 13-16, Dev discloses that the user is presented with a detailed topological view of components of the computer being monitored in a network).

As per claim 12, Dev teaches a method of monitoring the operational status of

components in a computer as in claim 11 above, including the act of sending said notification on a network to said computer (see col. 8-12).

As to claim 13, Dev teaches a method of monitoring the operational status of components in a computer as in claim 12 above where in the act of sending involves an SNMP transaction (see col. 4).

As to claims 14-17, Dev teaches the claimed limitation wherein said first code contains an index; wherein said status module uses said index to identify said user-friendly display message; wherein said index is predefined by a management information base; wherein said management information associates information about said component with said index; wherein said status module uses said information about said component from said management information base to generate said user-friendly display message (see figs. 1-10; col. 4-6; Dev discloses that different network devices are represented by virtual software models at the management console and events received by the management console are correlated with the virtual model to display the notification and description of events regarding network devices).

As to claim 18, Dev teaches a method of monitoring alerts regarding the status of components in a computer as in the claims above, including displaying a description of said notification (see fig. 10).

As to claim 20, Dev teaches a method for monitoring the operational status of components in a computer comprising the acts of:

providing a management information base which is configured to associate a plurality of indexes with different operational parameters related to said components (see figs. 1-10; col. 4-7, Dev discloses that the network devices are represented by virtual software models at the management console and event conditions received from the network devices are correlated to the virtual models in the management console).

Generating at least one alert, said alert providing information about a change in an operational parameter in at least one component, said alert comprising one index of

said indexes which identifies at least one of said operational parameters (see figs. 1-10; col. 4-7, Dev discloses that the network devices are represented by virtual software models at the management console and event conditions received from the network devices are correlated to the virtual models in the management console).

Allowing a user to selectively disable or enable a processing of said alert by selecting or deselecting a corresponding alert type in a graphic display (see figs. 7-11; col. 13-16, Dev discloses that the user may process further information about an alert by clicking on the corresponding device icon and alert status);

Receiving said alert unfiltered from the computer; and transforming said index into an automatically displayed user friendly display message (see figs. 7-10; col. 4-8, Dev discloses that alarm events are received and correlated to the virtual model representing the network devices and displayed to the user using different view options).

As to claims 21-22, Dev teaches a method for monitoring the operational status of components in a computer as in the claim above wherein said index is a variable in said management information base, and wherein said variable is compatible with SNMP (see col. 4).

As to claims 34-35, and 37, Dev teaches a method for monitoring the operational status of components in a computer as in the claims above further allowing the user to enable or disable the display of user-friendly message (see col. 8, Dev discloses that a filtering criteria can be utilized by the user to adjust the threshold of the severity of the event condition so that the event is not displayed).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dev et al., U.S. Patent No. 5,751,933 in view of Bonnell et al., U.S. Patent No. 5,655,081.

As to claim 19, Dev does not explicitly teach the claimed limitation of storing at a user computer a recommended course of action associated with one of said alerts, and displaying a recommended course of action associated with said alerts to the user .

However, Boennell teaches a system for monitoring a computer network (see fig. 13; col. 2, and 9, Bonnell discloses a set event manager 52 and event cache 212 responsible for keeping records of various occurrences throughout the computer network, such as occurrence of alarm conditions and their resolution).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dev by storing at the user computer recommended resolution of alarm conditions so that alarm conditions are resolved immediately. One would be motivated to do so to allow for management convenience.

8. Applicant's arguments filed September 27, 2000 have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that Dev neither teaches nor suggests the use of a graphic display to select or deselect alert types.

In response, Dev discloses that the user may process further information about an alert by clicking on the corresponding device icon and alert status (see figs. 7-11; col. 13-16).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AN MENG AI, can be reached on (703) 305-9678. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

A handwritten signature in black ink, appearing to read 'Saleh Najjar', with a stylized, cursive script.

Saleh Najjar  
Examiner Art Unit 2154